

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD SMITH,

Plaintiff,

Case No. 1:08-cv-607

v

HON. JANET T. NEFF

CORRECTIONAL MEDICAL
SERVICES, et al.,

Defendants.

ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983 in which Plaintiff requests preliminary injunctive relief. On August 26, 2008, the Magistrate Judge filed a Report and Recommendation, recommending that Plaintiff be denied preliminary injunctive relief on grounds that Plaintiff failed to show that he has no adequate legal remedy. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. The Court denies the objections. Plaintiff has also since filed a Motion to Amend Complaint Claim under 42 U.S.C. § 1983, concomitantly indicating the amendments he requests, and this Court grants the motion.

In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. Plaintiff's lengthy objections primarily reiterate the allegations set forth in his complaint. More specifically, he objects to the Magistrate Judge's conclusion that he is not experiencing an injury for which he has no legal remedy.

However, the Magistrate Judge correctly opines that Plaintiff's alleged exposure to wool does not appear to present a serious threat and that Plaintiff's claims may be redressed by monetary damages or other relief. Plaintiff's objections do not indicate that a different conclusion is warranted.

Though not addressed by the Magistrate Judge, because this action was filed *in forma pauperis*, this Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Order would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

THEREFORE, IT IS ORDERED that the objections (Dkt 11) are DENIED and the Report and Recommendation (Dkt 10) is APPROVED and ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's Petition for Immediate Preliminary Injunction [sic] Relief (Dkt 4) is DENIED for the reasons stated in the Report and Recommendation and an appeal of the Order would not be taken in good faith.

IT IS FURTHER ORDERED that Plaintiff's Motion to Amend Complaint Claim Under 42 U.S.C. § 1983 (Dkt 12) is GRANTED pursuant to FED. R. CIV. P. 15(a).

Date: October 23, 2008

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge